

**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** B-202744

**DATE:** May 4, 1981

**MATTER OF:** ACTION--Compensation for Unauthorized Services Provided Government

**DIGEST:**

Notwithstanding agency failure to comply with procurement regulations, claim for preparation of transcripts of meetings may be paid on quantum meruit basis since Government received benefit of services and price is considered reasonable, provided an authorized contracting official of Government recommends that payment be made.

[ACTION has requested our decision regarding the propriety of paying for court reporting services] performed by Ms. Elizabeth Griffin.

A consultant to the Assistant Director of the Office of Voluntary Citizens Participation of ACTION, acting on behalf of the Assistant Director and with her approval, requested, on four separate occasions, that Ms. Griffin, a freelance court reporter, [provide court reporting services at meetings.] The submissions make it clear that [there is no question that the services were requested and that the transcripts were received. Ms. Griffin submitted bills for each transcript delivered;] the payment requested totals \$3,535.30.

The ACTION contracting officer advises that [proper procurement procedures were not followed. Apparently, as a result of an administrative oversight, no procurement request was initiated by the Office] of Voluntary Citizens Participation (Voluntary Office) [which would have resulted in the execution of a valid purchase order.] The Assistant Director of the Voluntary [Office has requested that the contracting officer ratify the unauthorized procurement of these services on the basis that services were rendered to and accepted by her. To date, the contracting officer has refused to do so,] stating

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that in his view ratification of the contract award under Federal Procurement Regulations (FPR) § 1-1.405 (1964 ed. amend. 137) is inappropriate because the contracting officer would not have issued a noncompetitive purchase order to Ms. Griffin since the applicable FPR subpart § 1-3.6 (1964 ed. amend. 153), concerning small purchases, generally requires reasonable competition prior to award.)

Although the United States cannot be bound beyond the actual authority conferred upon its agents by statute or regulation, see United States v. Crance, 341 F.2d 161, 166 (8th Cir., 1965), the courts and our Office have recognized that in appropriate circumstances payment may be made for services rendered on a quantum meruit basis (the reasonable value of work or labor) or for goods furnished on a quantum valebant basis (the reasonable value of goods sold and delivered). 40 Comp. Gen. 447, 451 (1961). [Recognition of a right to payment on this basis, however, requires a showing (1) that the Government received a benefit and (2) that the unauthorized action has been expressly or impliedly ratified by authorized contracting officials of the Government.] Defense Mapping Agency, B-183915, June 25, 1975, 75-2 CPD 15; The Singer Company, B-183878, June 20, 1975, 75-1 CPD 406.

[The record indicates that the Government has accepted the reporter services and received a benefit and that the purchase price is considered to be reasonable. If payment is recommended by an authorized contracting official, an implied ratification may be inferred.] Planned Communication Services, Inc., B-191476, May 31, 1978, 78-1 CPD 408. [The fact that ratification of the contract award pursuant to FPR § 1-1.405, supra, was impermissible due to legal improprieties in the procurement is no bar to quantum meruit relief.] Bureau of Land Management - Mobile Home Purchased Unauthorized, B-200095, October 8, 1980, 80-2 CPD 257; Deloss Construction Company, B-196004, November 2, 1979, 80-1 CPD 201.

Thus, [payment on a quantum meruit basis] for \$3,535.50 may be allowed, if otherwise proper and correct.)

*Shilton J. Aocslaw*

Acting Comptroller General  
of the United States